

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1338 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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FEROZ IRANI

Versus

STATE OF GUJ

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Appearance:

MR AD SHAH for Petitioners

MR MA BUKHARI, ADDL. PUBLIC PROSECUTOR for Respondent No. 1

SERVED for Respondent No. 2

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 04/03/97

ORAL JUDGEMENT

1. By way of this Criminal Misc. Application under section 482 of the Code of Criminal Procedure, seeking direction to quash the criminal case No.1056/89 pending in the Court of the learned Metropolitan Magistrate, Court No.16, Ahmedabad.

2. The case of the complainant can be gathered from the verification made by the learned counsel which reads as follows :

"Thus, by creating confidence and trust in the complaint, the accused induced the complainant to enter into business with them, gave trust and confidence that they would perform stage shows as per the agreement, obtained advance deposit of Rs.50,000/- from the complainant, and even though the complainant made advance arrangements like lodging and boarding in hotels for the accused, and booked the halls for shows, and keeping the complainant in dark, all the accused in complicity with each other, and in aid and abetment of each other, directly went away to Bombay from Junagadh, and even though were liable to pay all this amount to the complainant, did not pay the same and committed criminal breach of trust and cheating and thereby have committed the criminal offence punishable u/s 406, 420 and 114 in the alternative under section 34 of the Indian Penal Code and therefore, this is my complaint in accordance with law. Therefore, it is prayed that the Hon'ble Court may be pleased to issue summons against the accused to cause their presence before the Hon'ble Court and punish them appropriately.

3. Having read the complaint and the verification, I am of the view that there is no prima face case constituting an offence u/s 406, 420 and 114 IPC. It is purely a case of breach of contract for which appropriate remedy is under the civil law. The filing of this complaint is nothing but the abuse of process of law.

4. In view of the aforesaid, this Criminal Misc. Application is allowed. The criminal proceedings being Criminal Case No.1056 of 1989 pending in the Court of the learned Metropolitan Magistrate, Court No.16, at Ahmedabad are quashed and set aside. Rule made absolute to the aforesaid extent.

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